

ENQUIRIES:	Ms Davenia Billings	D. DIALLING NO.:	(012) 367 7816
OUR REF:	FSP 14571	FAX:	(012) 422 2973
DATE:	9 July 2020	E-MAIL:	Davenia.billings@fsca.co.za

Ms Dominic Phillips
Goodsure Brokers (Pty) Ltd
Suite 9
10 Pepper Street
Cape Town
8001
E-mail: dominic@goodsure.co.za

NOTICE OF ADMINISTRATIVE SANCTION

1. The Financial Sector Conduct Authority (FSCA) is satisfied on available facts and information, and in particular the factors mentioned in section 45B of the FIC Act and representations received, that Goodsure Brokers (Pty) Ltd, an authorised financial services provider and an accountable institution as envisaged in terms of item 12 of schedule 1 of the FIC Act, has failed to comply with the Financial Intelligence Centre Act 38 of 2001 (FIC Act). Accordingly, the FSCA hereby issues this Administrative Sanction Notice (the Notice).

2. Nature of Non-compliance:

Risk Management and Compliance Programme

- 2.1. In terms of section 42(2)(a) of the FIC Act, a Risk Management and Compliance Programme (RMCP) must enable an accountable institution to identify, assess, monitor, mitigate and manage the risk that the provision by the accountable institution of products and services may involve or facilitate money laundering activities or the financing of terrorist and related activities (ML/TF). Sections

42(2)(b)-(r) of the FIC Act contains provisions that need to be included in the RMCP. These provisions relate to how the institution will comply with the various provisions regarding customer due diligence, record keeping and reporting of the FIC Act.

- 2.2. Guidance Note 7 issued by the Financial Intelligence Centre on 2 October 2017 further explains to accountable institution on how to conduct a risk assessment, how to understand, mitigate and manage its risks.
- 2.3. Goodsure Brokers (Pty) Ltd failed to comply with section 42(2)(a) of the FIC Act, in that the FSCA, during inspection, found that Goodsure Brokers (Pty) Ltd's RMCP is generic and not customised to its business model. As a result, Goodsure Brokers (Pty) Ltd is not in a position to identify, assess, monitor, mitigate and manage the risk that the provision by it of products and services may involve or facilitate money laundering activities or the financing of terrorist and related activities.

Training

- 2.4. In terms of section 43 of the FIC Act, an accountable institution must provide ongoing training to its employees to enable them to comply with the provisions of the FIC Act and the RMCP which are applicable to them.
- 2.5. Goodsure Brokers (Pty) Ltd failed to comply with section 43 in that it did not provide training to its employees relating to its RMCP.

Third party record keeping

- 2.6. In terms of section 24(3) of the FIC Act, an accountable institution must inform the FIC and FSCA if the accountable institution appointed a third party to keep record of customer due diligence records and transactional records.
- 2.7. Goodsure Brokers (Pty) Ltd is making use of Metrofile to keep record of transactional information. Goodsure Brokers (Pty) failed to inform the FIC and FSCA of the third-party record keeping.

Identification and verification of clients

- 2.8. In terms of section 21 of the FIC Act, accountable institutions must establish and verify the identity of clients in accordance with its RMCP. Section 21A of the FIC Act states that the accountable institution is required, in addition to the steps required under section 21, to obtain information to reasonably enable the accountable institution to determine whether future transactions that will be performed in the course of the business relationship concerned are consistent with the institution's knowledge of that prospective client or client.
- 2.9. Goodsure Brokers (Pty) Ltd has not identified and verified 4 of their clients from the sample the FSCA reviewed.
- 2.10. In addition, Goodsure Brokers (Pty) Ltd has not obtained information to reasonably enable it to determine whether future transactions, that will be performed in the course of the business relationship concerned, are consistent with the institution's knowledge of that prospective client or client in respect of 3 clients.

3. Reasons for imposing the administrative sanction:

- 3.1. Non-compliance with the FIC Act is a serious contravention;
- 3.2. All accountable institutions had 18 months grace period to implement the amendments to the FIC Act;
- 3.3. Section 45C(11) of the FIC Act states that a supervisory body must publish the sanction unless there are exceptional circumstances justifying the confidentiality of the sanction. Exceptional circumstances have not been defined in the FIC Act, but it is submitted that it means the circumstances must be extraordinary. The fact that Goodsure Brokers (Pty) Ltd has remediated and accepted the non-compliance is not extraordinary but in fact something that is expected from all non-complying accountable institutions. The test is therefore an objective test. The FSCA does not have discretion and must publish the sanction if no exceptional circumstances are present.

4. Particulars of the administrative sanction:

In terms of section 45C(1), read with sections 45C(3), and 45C(6)(a) of the FIC Act, the FSCA hereby imposes the following administrative sanction on Goodsure Brokers (Pty) Ltd:

4.1. Goodsure Brokers (Pty) Ltd is directed to:

- 4.1.1. Ensure that its RMCP is customised according to its business model and provide copy thereof to the FSCA by 31 July 2020.
- 4.1.2. Ensure that it provides training to employees on its RMCP and provides proof thereof to the FSCA by 7 August 2020.
- 4.1.3. Ensure that the RMCP clearly states the frequency of training.
- 4.1.4. Ensure the FIC is notified of the third party record keeping by 7 August 2020.
- 4.1.5. Ensure that all current and prospective clients are identified and verified in terms of its RMCP.
- 4.1.6. Ensure that it obtains information to reasonably enable the accountable institution to determine whether future transactions that will be performed in the course of the business relationship concerned are consistent with the institution's knowledge of that prospective client or client.

4.2. In terms of section 45C(3)(e) of the FIC Act, the FSCA imposes a financial penalty of R35,000.00 on Goodsure Brokers (Pty) Ltd as follows:

- 4.2.1. R10,000.00 for RMCP which is non-compliant with the requirements of section 42(2)(a).
- 4.2.2. R10,000.00 for failing to provide ongoing training on its RMCP to employees.
- 4.2.3. R15,000.00 for failing to identify and verify all clients.

4.3. The payment of the R15,000.00 of the total financial penalty is hereby suspended for a period of 3 years from the date of this Administrative Sanction, on condition that Goodsure Brokers (Pty) Ltd remains fully compliant with sections 21, 21A, 42(2)(a) and section 43 of the FIC Act. Should Goodsure Brokers (Pty) Ltd be found to be non-compliant with any of sections 21, 21A, 42(2)(a) and section 43 of the FIC Act within the 3 year suspension period, the suspended penalty of R15,000.00 becomes immediately payable.

4.4. Goodsure Brokers (Pty) Ltd is directed to pay the remaining financial penalty to the total of R20,000.00 on or before 7 August 2020.

4.5. The financial penalty is payable via electronic fund transfer to:

Account Name	:	NRF – FIC Act Sanctions
Account Holder	:	National Treasury
Account Number	:	80552749
Bank	:	South African Reserve Bank
Code	:	910145
Reference	:	FIC Sanction – Goodsure Brokers (Pty) Ltd /2019

Proof of payment must be submitted to the FSCA to Ms D Billings.

5. **Right of appeal:**

5.1. In terms of section 45D of the FIC Act, read with Regulation 27C of the Regulations promulgated in terms of GN R1595 in GG 24176 of 20 December 2002 as amended, Goodsure Brokers (Pty) Ltd may lodge an appeal within 30 days, from the date of receipt of the Notice. The notice of appeal and proof of payment of the mandatory appeal fee must be:-

5.1.1. **hand delivered to:**

The Secretary: The FIC Act Appeal Board
Byls Bridge Office Park, Building 11
13 Candela Street
Highveld Extension
Centurion

5.1.2. sent via electronic mail to:

The HOD: Office of General Counsel

FSCA

Attention: Adv C Geel (Charl.Geel@fsca.co.za)

5.2. Mr Vongani Khoza, Secretary of the FIC Act Appeal Board, may be contacted at Vongani.Khosa@fic.gov.za and telephonically at (012) 641-6241 / 082 437 6371 should Goodsure Brokers (Pty) Ltd require further information regarding the appeal process. Details of the appeal process can also be found on the FIC's website at www.fic.gov.za.

6. Failure to comply with the administrative sanction

6.1. In terms of section 45(C)(7)(b) of the FIC Act, should Goodsure Brokers (Pty) Ltd fail to pay the prescribed financial penalty in accordance with this notice and an appeal has not been lodged within the prescribed period, the FSCA may forthwith file with the clerk or registrar of a competent court a certified copy of this notice, which shall thereupon have the effect of a civil judgement lawfully given in that court in favour of the FSCA.

7. Publication of sanction:

7.1. The FSCA will make public the decision and the nature of the sanction imposed in terms of section 45C(11) of the FIC Act.

Yours faithfully



Kedibone Dikokwe

For the Financial Sector Conduct Authority